

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Peter Espinoza

First Amendment

Complaint for Employment
Discrimination

(Write the full name of each plaintiff who is filing
this complaint. If the names of all the plaintiffs
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)

Case No. 1:17-CV-04151-WFK-LB
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☐ No
(check one)

-against-

Apple Metro Inc
Mr. FRANK P. Venice

(Write the full name of each defendant who is
being sued. If the names of all the defendants
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)

FILED
CLERK
2017 JUL 26 PM 1:02
U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address

Peter Espinoza
40-11 72 ST. APT # 2C
Woodside, Queens
New York, 11377
Cell # 917-930-5908 - Home 718-4528058
N/A

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name

Job or Title
(if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address
(if known)

Apple Metro Inc
RESTAURANT - AppleBees - Astoria
38-01 35th Av. Astoria
Queens, New York, 11101
718-943-7404
N/A

Defendant No. 2

Name

Job or Title
(if known)

Street Address

City and County

MR: Frank P. Venice
EVP - CEO
38-01 35th Av. Astoria
Long Island City - Queens

State and Zip Code Queens, N. Y. 11101
Telephone Number 718-943-7404
E-mail Address _____
(if known)

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name Applio Bee Metro Inc
Street Address 38-01 35th Av. Astoria
City and County Long Island City,
State and Zip Code Queens N.Y. 11101
Telephone Number 718-943-7404

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Other federal law (*specify the federal law*):

☐ Relevant state law (*specify, if known*):

☐ Relevant city or county law (*specify, if known*):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (*check all that apply*):

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☐ Retaliation.
- ☒ Other acts (*specify*): Age Discrimination

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

July, 23, 2016

C. I believe that defendant(s) (check one):

- ☒ is/are still committing these acts against me.
☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):

- ☐ race _____
☐ color _____
☐ gender/sex _____
☐ religion _____
☐ national origin _____
☒ age. My year of birth is 1941. (Give your year of birth only if you are asserting a claim of age discrimination.)
☐ disability or perceived disability (specify disability) _____

E. The facts of my case are as follows. Attach additional pages if needed.

On July, 23, 2016, about 10:30 AM, Mr. Carlos Watson, call me to the office, "And he say Peton, please, sign this form, I ASK WAY Peton, you are fired, I ASK again the reason, he don't give me, proper explanation of any indication of my inability to do my job. I believe Mr. Watson (manager) can not explain the factor mention, my age was the main reason I WAS fired. Mr. Carlos WATSON never complained about my performed, during my emp.loyment."

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

08-09-2016

- B. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Notice of Right to Sue letter.

☒ issued a Notice of Right to Sue letter, which I received on (date)

03-07-2017

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐ 60 days or more have elapsed.

☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Been fired for no apparent reason, except, because my age, was devastating, humiliating, and created a lot of the mental & physical stress. I'm asking for: \$100,000, for exemplary & punitive damages.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 26, 2017 ~~2017~~ ~~PE~~

Signature of Plaintiff

Printed Name of Plaintiff

Peter Espinoza

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

Espinoza
72nd Street, Apt 2C
Isle, NY 11377

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

e No.

EEOC Representative

Telephone No.

-03916

Holly M. Woodyard,
State & Local Program Manager

(212) 336-3643

C IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age
nation in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you.
file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your
must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be
a time limit for filing suit based on a claim under state law may be different.)

ay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the
EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years)
ou file suit may not be collectible.

On behalf of the Commission

Kevin J. Berry,
District Director

May 1, 2017

(Date Mailed)

es(s)

APPLE METRO, INC.
Attn: Frank P. Venice, EVP-CFO
38-01 35th Avenue
Long Island City, NY 11101